



General Assembly

Bill No. 6801

June Special Session,
2009

LCO No. 9630

*09630 _____ *

Referred to Committee on No Committee

Introduced by:

REP. DONOVAN, 84th Dist.

SEN. WILLIAMS, 29th Dist.

AN ACT AUTHORIZING ECONOMIC RECOVERY NOTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (*Effective from passage*) Notwithstanding the provisions of
2 subsection (b) of section 4-30a of the general statutes, the funds in the
3 Budget Reserve Fund shall not be deemed to be appropriated for the
4 purpose of funding the deficit for the fiscal year ending June 30, 2009.

5 Sec. 2. (NEW) (*Effective from passage*) (a) For the purpose of funding
6 the deficit in the General Fund arising from the operations of the
7 General Fund for the fiscal year ending June 30, 2009, as reported by
8 the Comptroller to the Governor in accordance with section 3-115 of
9 the general statutes, the Treasurer is authorized to issue notes of the
10 state from time to time in an amount not to exceed the amount of such
11 deficit, and to deposit the proceeds thereof in the General Fund. The
12 Comptroller is hereby authorized and directed to certify to the
13 Treasurer the estimated amount of such deficit and the amount so
14 certified shall be conclusive evidence for the purpose of determining at

15 the time of issuance the amount of notes which the Treasurer is
16 authorized to issue pursuant to this section to fund the deficit. The
17 Comptroller shall make such certification promptly upon passage of
18 this section, and may base such certification on the most recent of the
19 Comptroller's monthly reports on the fiscal condition of the state.
20 When the actual amount of the accumulated deficit in the General
21 Fund as of June 30, 2009, is known, the Comptroller is hereby
22 authorized and directed to certify to the Treasurer such amount. In the
23 event that the actual amount of the General Fund deficit is more than
24 the amount initially estimated by the Comptroller, the Treasurer is
25 authorized to issue additional notes of the state therefor and to deposit
26 the proceeds thereof in the General Fund. The Treasurer is authorized
27 to issue notes in an amount sufficient to refund any notes previously
28 issued pursuant to this section. In addition to the notes authorized by
29 this section to fund the deficit, including any refunding notes, the
30 Treasurer is authorized to issue notes in such additional amounts as
31 the Treasurer shall determine to pay the costs of issuance of any notes
32 issued pursuant to this section and interest payable or accrued on such
33 notes through June 30, 2011.

34 (b) Any notes issued pursuant to this section shall be designated
35 economic recovery notes and shall be issued on or after the effective
36 date of this section.

37 (c) All such notes shall be general obligations of the state and the
38 full faith and credit of the state of Connecticut are pledged for the
39 payment of the principal of and interest on such notes as the same
40 shall become due, and accordingly and as part of the contract of the
41 state with the holders of such notes, appropriation of all amounts
42 necessary for punctual payment of such principal and interest is
43 hereby made, and the Treasurer shall pay such principal and interest
44 as the same become due. All such notes shall be sold at not less than
45 par and accrued interest in such manner and on such terms as the
46 Treasurer may determine is in the best interest of the state, and shall be
47 signed in the name of the state and on its behalf by the Treasurer. All

48 such notes shall mature before July 1, 2016, in such principal amounts
49 and at such times, bear such date or dates, be payable at such place or
50 places, bear interest at such rate or different or varying rates, payable
51 at such time or times, be in such denominations, be in such form with
52 or without interest coupons attached, carry such registration and
53 transfer privileges, be payable in such medium of payment, be subject
54 to such terms of redemption with or without premium and have such
55 additional security, covenant or contract provisions, as appropriate or
56 necessary to improve their marketability, as the Treasurer shall
57 determine prior to their issuance. In connection with such notes, the
58 Treasurer may enter into such paying agent agreements, indentures of
59 trust, escrow agreements or other agreements, with such parties and
60 with such provisions as the Treasurer determines are appropriate or
61 necessary.

62 (d) The Treasurer may obtain from a commercial bank or insurance
63 company authorized to do business within or without this state a letter
64 of credit, line of credit or other liquidity facility or credit facility for the
65 purpose of providing funds for the payments in respect of notes
66 required by the holder thereof to be redeemed or repurchased prior to
67 maturity or for providing additional security for such notes. In
68 connection with any such liquidity facility or credit facility, the
69 Treasurer may enter into any reimbursement agreements, remarketing
70 agreements, standby purchase agreements or any other necessary or
71 appropriate agreements on behalf of the state in connection with
72 securing or insuring or remarketing such notes, on such terms and
73 conditions as the Treasurer determines to be in the best interest of the
74 state. The Treasurer is authorized to pledge the full faith and credit of
75 the state to the state's payment obligations under any such agreement
76 and the Treasurer is authorized to include such pledge in any such
77 agreement as part of the contract with the provider of such liquidity
78 facility or credit facility. The Treasurer shall apply any appropriation
79 for the payment of such notes to such reimbursement repayment if
80 such liquidity facility or credit facility is drawn upon. As part of the
81 contract of the state with the other parties to any agreement entered

82 into pursuant to this subsection for which the full faith and credit of
83 the state is pledged to the state's payment obligations under such
84 agreement, appropriation of all amounts necessary for the punctual
85 payment of the obligations of the state under any such agreement is
86 hereby made and the Treasurer shall pay such amounts as the same
87 become due.

88 (e) In connection with or incidental to the carrying of such notes, or
89 in connection with or incidental to the sale and issuance of such notes,
90 the Treasurer may enter into such contracts as the Treasurer may
91 determine to be necessary or appropriate to place the obligation of the
92 state, as represented by the notes, in whole or in part, on such interest
93 rate or cash flow basis as the Treasurer may determine, including
94 without limitation, interest rate swap agreements, insurance
95 agreements, forward payment conversion agreements, futures
96 contracts, contracts providing for payments based on levels of, or
97 changes in, interest rates or market indices, contracts to manage
98 interest rate risk, including without limitation, interest rate floors or
99 caps, options, puts, calls and similar arrangements. Such contracts
100 shall contain such payment, security, default, remedy and other terms
101 and conditions as the Treasurer may deem appropriate and shall be
102 entered into with such party or parties as the Treasurer may select,
103 after giving due consideration, where applicable, for the
104 creditworthiness of the counter party or counter parties, including any
105 rating by a nationally recognized rating agency, the impact on any
106 rating on outstanding bonds or notes or any other criteria as the
107 Treasurer may deem appropriate, provided the unsecured long-term
108 obligations of the counter party is rated the same or higher than the
109 underlying rating of the state on the applicable notes by at least one
110 nationally recognized rating agency. The Treasurer is authorized to
111 pledge the full faith and credit of the state to the state's payment
112 obligations under any contract entered into pursuant to this
113 subsection. As part of the contract of the state with the other parties to
114 any agreement entered into pursuant to this subsection for which the
115 full faith and credit of the state is pledged to the state's payment

116 obligations under such agreement, appropriation of all amounts
117 necessary for the punctual payment of the obligations of the state
118 under any such agreement is hereby made and the Treasurer shall pay
119 such amounts as the same become due.

120 (f) The Superior Court shall have jurisdiction to enter judgment
121 against the state founded (1) upon any express contract between the
122 state and the purchasers and subsequent owners and transferees of any
123 economic recovery notes issued or contracted to be issued by the state,
124 and (2) upon any agreement entered into pursuant to subsection (d) or
125 (e) of this section. Any action brought under this subsection shall be
126 brought in the superior court for the judicial district of Hartford. The
127 jurisdiction conferred upon the Superior Court by this subsection
128 includes any set-off, claim or demand whatever on the part of the state
129 against any plaintiff commencing an action under this subsection. Such
130 action shall be tried to the court without a jury. All legal defenses,
131 except governmental immunity, shall be reserved to the state. Any
132 action brought under this subsection shall be privileged in respect to
133 assignment for trial upon motion of either party.

134 (g) Any expense incurred in connection with the issuance or
135 renewal of the economic recovery notes shall be paid from the accrued
136 interest and premiums on such notes from the proceeds of the sale of
137 such notes or otherwise from the General Fund. The Treasurer may
138 make representations and agreements for the benefit of the holders of
139 any such notes which are necessary or appropriate to ensure the
140 inclusion or exclusion of interest on such notes of the state from
141 taxation under the Internal Revenue Code of 1986 or any subsequent
142 corresponding internal revenue code of the United States, as from time
143 to time amended, including agreements to pay rebates to the federal
144 government of investment earnings derived from the investment of the
145 proceeds of notes. The Treasurer may make representations and
146 agreements for the benefit of the holders of such notes on behalf of the
147 state to provide secondary market disclosure information. Any such
148 agreement may include: (1) Covenants to provide secondary market

149 disclosure information, (2) arrangements for such information to be
150 provided with the assistance of a paying agent, trustee or other agent,
151 and (3) remedies for breach of such agreement, which remedies may be
152 limited to specific performance. The state shall protect and save
153 harmless any official or former official of the state from financial loss
154 and expense, including legal fees and costs, if any, arising out of any
155 claim, demand, suit or judgment by reason of alleged negligence on
156 the part of such official, while acting in the discharge of his or her
157 official duties, in providing secondary market disclosure information
158 or performing any other duties set forth in any agreement to provide
159 secondary market disclosure information. Nothing in this section shall
160 be construed to preclude the defense of governmental immunity to any
161 such claim, demand or suit. For purposes of this subsection "official"
162 means any person elected or appointed to office or any state employee.
163 This indemnity provision shall not apply to cases of willful and
164 wanton fraud.

165 (h) All such notes, their transfer and the income therefrom,
166 including any profit on the sale or transfer thereof, shall at all times be
167 exempt from all taxation by the state or under its authority, except for
168 estate or succession taxes, but the interest on such notes shall be
169 included in the computation of any excise or franchise tax. Such notes
170 are hereby made and declared to be (1) legal investments for savings
171 banks and trustees unless otherwise provided in the instrument
172 creating the trust, (2) securities in which all public officers and bodies,
173 all insurance companies and associations and persons carrying on an
174 insurance business, all banks, bankers, trust companies, savings banks
175 and savings associations, including savings and loan associations,
176 building and loan associations, investment companies and persons
177 carrying on a banking or investment business, all administrators,
178 guardians, executors, trustees and other fiduciaries and all persons
179 whatsoever who are or may be authorized to invest in notes of the
180 state, may properly and legally invest funds, including capital in their
181 control or belonging to them, and (3) securities which may be
182 deposited with and shall be received by all public officers and bodies

183 for any purpose for which the deposit of notes of the state is or may be
184 authorized.

185 (i) Notwithstanding any provision of the general statutes, for the
186 purpose of determining at any time or times the position of the
187 General Fund as of June 30, 2010, the Comptroller is authorized and
188 directed to give effect to and to show the funding of the General Fund
189 deficit as of June 30, 2009, as certified and provided for in this section
190 in an amount equal to the principal amount of the notes issued and
191 deposited in the General Fund, provided the notes authorized in this
192 section have been so issued prior to such time or times of
193 determination, it being hereby declared to be the intent and purpose of
194 this section to provide for the General Fund deficit as of June 30, 2009,
195 by the funding thereof through the issuance of such notes.

196 Sec. 3. Subsection (a) of section 3-21 of the general statutes is
197 repealed and the following is substituted in lieu thereof (*Effective from*
198 *passage*):

199 (a) No bonds, notes or other evidences of indebtedness for
200 borrowed money payable from General Fund tax receipts of the state
201 shall be authorized by the General Assembly or issued except such as
202 shall not cause the aggregate amount of the total amount of bonds,
203 notes or other evidences of indebtedness payable from General Fund
204 tax receipts authorized by the General Assembly but which have not
205 been issued and the total amount of such indebtedness which has been
206 issued and remains outstanding to exceed one and six-tenths times the
207 total General Fund tax receipts of the state for the fiscal year in which
208 any such authorization will become effective or in which such
209 indebtedness is issued, as estimated for such fiscal year by the joint
210 standing committee of the General Assembly having cognizance of
211 finance, revenue and bonding in accordance with section 2-35. In
212 computing such aggregate amount of indebtedness at any time, there
213 shall be excluded or deducted, as the case may be, (1) the principal
214 amount of all such obligations as may be certified by the Treasurer (A)

215 as issued in anticipation of revenues to be received by the state during
216 the period of twelve calendar months next following their issuance and
217 to be paid by application of such revenue, or (B) as having been
218 refunded or replaced by other indebtedness the proceeds and
219 projected earnings on which or other funds are held in escrow to pay
220 and are sufficient to pay the principal, interest and any redemption
221 premium until maturity or earlier planned redemption of such
222 indebtedness, or (C) as issued and outstanding in anticipation of
223 particular bonds then unissued but fully authorized to be issued in the
224 manner provided by law for such authorization, provided, as long as
225 any of such obligations are outstanding, the entire principal amount of
226 such particular bonds thus authorized shall be deemed to be
227 outstanding and be included in such aggregate amount of
228 indebtedness, or (D) as payable solely from revenues of particular
229 public improvements, (2) the amount which may be certified by the
230 Treasurer as the aggregate value of cash and securities in debt
231 retirement funds of the state to be used to meet principal of
232 outstanding obligations included in such aggregate amount of
233 indebtedness, (3) every such amount as may be certified by the
234 Secretary of the Office of Policy and Management as the estimated
235 payments on account of the costs of any public work or improvement
236 thereafter to be received by the state from the United States or agencies
237 thereof and to be used, in conformity with applicable federal law, to
238 meet principal of obligations included in such aggregate amount of
239 indebtedness, (4) all authorized and issued indebtedness to fund any
240 budget deficits of the state for any fiscal year ending on or before June
241 30, 1991, (5) all authorized indebtedness to fund the program created
242 pursuant to section 32-285, (6) all authorized and issued indebtedness
243 to fund any budget deficits of the state for any fiscal year ending on or
244 before June 30, 2002, (7) all indebtedness authorized and issued
245 pursuant to section 1 of public act 03-1 of the September 8 special
246 session*, (8) all authorized indebtedness issued pursuant to section 3-
247 62h, [and] (9) any indebtedness represented by any agreement entered
248 into pursuant to subsection (b) or (c) of section 3-20a as certified by the

249 Treasurer, provided the indebtedness in connection with which such
 250 agreements were entered into shall be included in such aggregate
 251 amount of indebtedness, and (10) all indebtedness authorized and
 252 issued pursuant to section 2 of this act. In computing the amount of
 253 outstanding indebtedness, only the accreted value of any capital
 254 appreciation obligation or any zero coupon obligation which has
 255 accreted and been added to the stated initial value of such obligation
 256 as of the date of any computation shall be included.

257 Sec. 4. (*Effective from passage*) Notwithstanding the provisions of
 258 section 4-30a of the general statutes, after the accounts for the fiscal
 259 year ending June 30, 2010, and each fiscal year thereafter, until and
 260 including the fiscal year ending June 30, 2017, are closed, if the
 261 Comptroller determines there exists an unappropriated surplus in the
 262 General Fund, the amount of any such surplus shall first be used for
 263 redeeming prior to maturity any outstanding notes issued under
 264 section 2 of this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	3-21(a)
Sec. 4	<i>from passage</i>	New section